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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,714	01/09/2002	Isaac Bentolila	MET1.0025	6438
23386 7590 09/20/2007 MYERS DAWES ANDRAS & SHERMAN, LLP 19900 MACARTHUR BLVD., SUITE 1150 IRVINE, CA 92612			EXAMINER NGUYEN BA, HOANG VU A	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 09/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/043,714	Applicant(s) BENTOLILA ET AL.	
	Examiner Hoang-Vu A. Nguyen-Ba	Art Unit 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 29, 2007 has been entered.
2. Claims 1-21 are pending. Claims 1, 8 and 12 are independent claims.

### *Response to Amendments*

3. Per Applicant's request, Claims 1 has been amended.

### *Response to Arguments*

4. Applicant's arguments in the Remarks, pp. 9-13, filed concurrently with the above-mentioned RCE, have been fully considered but are not persuasive. Following is an examiner's response to Applicant's arguments.

#### Applicant's argument:

The presently claimed invention is directed to a television rating system for targeted program delivery. Amended independent claim 1 requires, in part, "a contextual behavioral profiling agent included in the client-side system" for "deriving profiling information related to a television user's viewing behavior with content and usage-related preferences." Advantageously, the presently claimed invention provides an intelligent and flexible method for targeted program delivery. As implied in the instant Advisory Action, none of the cited references shows or suggests the above-mentioned claim limitation.

The instant Advisory Action (page 5, lines 1-3) responded to Applicant's arguments by directing "Applicant's attention to the Office action of January 26, 2007, p. 4, first two paragraphs which addressed the above-mentioned limitations." Applicant respectfully disagrees. The above-cited portion of the Office Action of January 26, 2007 has nothing to do with the claimed limitations, but merely addresses motivation to combine. The Office action of January 26, 2007, in fact, failed to address the claim limitations with respect to the claimed "contextual behavioral profiling system" being "included in the client-side system."

Examiner's reponse:

The examiner agrees with Applicant's argument that the two paragraphs of page 4 address the motivation to combine the two references of record. The advisory action indeed contains a typographical error: page 4 should actually read page 3.

In these two paragraphs of page 3, the Office action mailed on January 26, 2007 indicates that Herz's "customer profile system in accordance with the invention calculates the agreement matrix at the customer's set top terminal from the customer profiles stored in the set top multimedia terminal and the content profiles of the received video programming." (Herz, 41:55-60). Thus, contrary to Applicant's assertion, at least Herz teaches the above-mentioned limitations.

Applicant's argument:

The instant Advisory Action further states, "it is noted that the claimed contextual profiling system is not specifically defined in the specification as being included in the client-side system. See [0059]. As best understood, the contextual behavioral profiling system is a system that comprises part of the server-side system, part of database and part of client-side and is not exclusively included in the client-side system."

Applicant hereby respectfully traverses the Advisory Action's interpretation of the claimed invention with respect to the claimed contextual behavioral profiling system. As clearly shown in, e.g., Figs. 8-10 of the present application, reproduced below, the claimed contextual behavioral profiling system, which comprises the profiling agent, is clearly included in the client side.

Examiner's response:

The examiner's comment regarding the claimed "contextual behavioral profiling system [that] is not specifically defined in the specification as being included in the client-side system" is withdrawn in view of Applicant's amendments to claim 1 and Applicant's showing of the relevant portion of the specification that discloses the contextual behavioral profiling agent being included in the client-side system.

Applicant's argument:

Thus, Applicant respectfully submits that the claims as amended are allowable over Hendricks and Herz. In addition to the clear novelty of the novel combination of claim elements, neither Hendricks nor Herz teach nor render obvious including the profiling agent in the client side system as specifically claimed by Applicant and shown in the specification. The remaining claims are allowable both for their own novel sub-features and for their dependency from allowable independent claims. Therefore, Applicant respectfully requests that the rejection of the claims under Section 103 be withdrawn.

Examiner's response:

As discussed in the response to the first Applicant's argument, at least Herz teaches the profiling agent in the client side system. Therefore, the rejection of amended claim 1 is considered proper in view of the cited portion of Herz, i.e., 41:55-60. The rejection of amended Claim 1 and of the remaining claims are addressed hereinafter.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,738,978 to Hendricks in view of U.S. Patent No. 6,088,722 to Herz et al. ("Herz'722").

**Claim 1 (Currently amended)**

For the first three limitations, see discussion on the previous Office actions.  
Herz discloses:

*a contextual behavioral profiling ~~system~~agent included in the client-side system for deriving profiling information related to a television user's viewing behavior with content and usage-related preferences (see at least 41:55-64; 6:64 – 7:13); and*

*a behavioral model database ~~connected to the profiling system~~ for storing in the client-side system the profiling information derived by the profiling agent related to the television user's viewing behavior (see at least (see at least 41:55-64; 6:64 – 7:13).*

For the motivational statement, see previous Office actions.

7. For **Claims 2-21**, see discussion in previous Office actions.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hoang-Vu A. Nguyen-Ba whose telephone number is (571) 272-3701. The Examiner can normally be reached on Tuesday - Friday from 7:00 – 17:30.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist: 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Anthony Nguyen-Ba", with a long horizontal flourish extending to the right.

ANTONY NGUYEN-BA  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 2100

September 13, 2007